

USSN: 09/732,123
Atty. Docket: 10242
Amdt. Dated April 21, 2004
Reply to Office Action mailed January 21, 2004

REMARKS/ARGUMENTS

Claims 1-9 and 11 are all the claims pending in the application.

Applicant amended Claim 1 to recite that the claimed film layer has a pore accessibility for water of at least about 0.60 when pore accessibility is measured by treating the film layer with plasma according to the method for about 6 seconds.

Amended Claim 1 is supported by the application as filed.

In particular, the fundamental factual inquiry with respect to whether an amended claim is adequately supported by the application as filed is whether the amended claim defines an invention that was clearly conveyed to those skilled in the art at the time the application was filed. Ralston Purina Co. v. Far-Mar-Co., Inc., 227 USPQ 177, 179 (Fed. Cir. 1985). The subject matter of the amended claim need not be described literally, i.e., using the same terms or *in haec verba*, in order for the disclosure to satisfy the written description requirement. MPEP §2163.02.

In the present case, the application as filed clearly conveyed to one of ordinary skill in the art the claimed invention of a film layer having a pore accessibility for water of at least 0.60 when treated with plasma for about 6 seconds by the method recited in Claim 1. For example, the Rule 132 Declaration of Dr. Shifang Luo, which was filed in August of 2003, demonstrates that the specification discloses a film layer having a pore accessibility for water of at least 0.60 when a "time exposed" value of about 6 seconds is calculated for example films of the present application from the disclosure at page 9, lines 22-27, Table 1 (page 11) and Table 3 (page 12). Applicant refers to pages 2-4 of Dr. Luo.

Applicant also amended Claim 7 to recite that the claimed film layer has a pore accessibility for water of at least about 0.60 when pore accessibility is measured by treating the film layer with plasma according to the method for about 6 seconds.

Although Claim 7 (and dependent Claims 8-10 and 11) are presently withdrawn from consideration as being directed to a non-elected invention, where an applicant elects claims directed to a product, and a product claim is subsequently found allowable, withdrawn process

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claims which depend from or otherwise include all the limitations of the allowable product claim may be rejoined. MPEP §821.04. Accordingly, Applicant respectfully requests rejoinder of Claims 7-10 and 11 in the present case at the time Claim 1 is found allowable, insofar as independent Claim 7 includes all the limitations of Claim 1.

Applicant notes with appreciation the Examiner's indication at Section No. 6, page 4, of the present Office Action that the rejections over Kubota and JP '833 have been withdrawn.

Applicant respectfully submits that the remainder of the art rejections should be reconsidered and withdrawn as well. That is, U.S. Patent 6,022,902 to Koontz does not disclose (anticipate) or suggest (render obvious) the claimed invention.

As noted by the Examiner in the Advisory Action mailed October 6, 2003, the claimed invention has been structurally distinguished from the disclosure of U.S. Patent 6,022,902 to Koontz, and Applicant has previously amended the claims to reflect the direct contact between plasma and film in the present invention.

Furthermore, in response to the Examiner's request at Section No. 3, page 3, of the Action that Applicant provide a demonstration that the direct contact between the plasma and film in the present invention would impart distinctive characteristic properties to the final product, Applicant respectfully submits that such a demonstration has already been provided with respect to pore accessibility.

Specifically, Dr. Luo's Declaration clearly demonstrates that when Koontz's films are exposed for a period of time of about six seconds, they fail to achieve the presently claimed pore accessibility for water of at least about 0.60. In fact, Koontz's films do not even come close to achieving the presently claimed pore accessibility of about 0.60 when exposed for a period of time of about six seconds.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the remaining prior art rejections.

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Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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